

**XYZ Oil Company**

**Oil SPCC Plan**

***Typical Retail Facility***  
**[city], Maine**

**Revision 0**

**Prepared by**

**SPCC Plan Engineering, Inc.**

\_\_\_\_\_ Street

\_\_\_\_\_, Maine 04xxx

**PROJECT NO.** \_\_\_\_\_

**December 2004**

**Oil SPCC Plan**  
**XYZ Oil Company**  
**[city], Maine**

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**Note: Bracketed notes in Table of Contents indicate cross-reference to 40 CFR 112.**

## MANAGEMENT APPROVAL & REVIEW – [112.5 & 112.7(d)(2)]

### MANAGEMENT APPROVAL

XYZ Oil Co. is committed to the prevention of discharges of oil to navigable waters or the environment, and maintains the highest standards for spill prevention control and countermeasures through periodic review, updating, and implementation of this Spill Prevention Control and Countermeasure (SPCC) Plan. XYZ Oil Co. will provide the manpower, equipment and materials required to expeditiously control and remove any quantity of oil discharged that may be harmful.

Authorized Facility Representative: \_\_\_\_\_ Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

### MANAGEMENT REVIEW

A review and evaluation of this SPCC Plan is conducted at least once every five years. As a result of this review and evaluation, XYZ Oil Co. will amend the SPCC Plan within six months of the review to include more effective prevention and control technology if: (1) such technology will significantly reduce the likelihood of a spill event from the facility, and (2) if such technology has been field-proven at the time of review.

This SPCC Plan will also be amended within six months after a change in the facility design, construction, operation, or maintenance occurs which materially affects the facility's potential for the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines.

Any technical amendment to the SPCC Plan shall be certified by a Professional Engineer.

<u>Review Dates</u>	<u>Signature</u>	<u>Amendment Required? (Y/N)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

## PROFESSIONAL ENGINEER'S REVIEW – [112.3(d)(1)]

The undersigned Registered Professional Engineer is familiar with the requirements of Chapter 40 of the Code of Federal Regulations Part 112 (40 CFR 112) and has supervised examination of the facility. The undersigned Registered Professional Engineer attests that this Oil Spill Prevention Control and Countermeasure Plan has been prepared in accordance with good engineering practices including applicable industry standards, and in accordance with the requirements of Chapter 40 of the Code of Federal Regulations Part 112 (40 CFR 112); that procedures have been established for required inspections and testing; and that the Plan is adequate for the facility.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company

\_\_\_\_\_  
Date

\_\_\_\_\_  
P.E. Registration Number

## **1.0 INTRODUCTION**

### **1.1 Purpose**

The purpose of this Oil Spill Prevention Control and Countermeasure (SPCC) plan is to prevent oil spills from occurring, and to perform safe, efficient and timely response in the event of a spill or leak (both referred to as “spills” herein). In accordance with United States Environmental Protection Agency (EPA) oil pollution prevention regulations (40 CFR 112), the XYZ Oil Co. must prepare and implement an SPCC plan for facilities that could reasonably be expected to discharge oil into or upon navigable waters or adjoining shorelines; and, meet one of the following conditions:

- ◆ Above-ground oil storage capacity exceeds 1,320 gallons; or
- ◆ Underground oil storage capacity exceeds 42,000 gallons, unless the underground tanks are subject to all of the technical requirements of 40 CFR 280 or a state program approved under 40 CFR 281. (Maine’s approved program is Department of Environmental Protection, Chapter 691 – Rules for Underground Storage Facilities.)

As defined by 40 CFR Part 112, oil includes all grades of motor oil, hydraulic oil, lube oil, fuel oil, gasoline and diesel, automatic transmission fluid (ATF), waste oil, and transformer mineral oil. The definition of oil also includes non-petroleum oils such as animal or vegetable oils and synthetic oils.

#### ***1.1.1 Using the Plan***

In addition to satisfying a regulatory requirement, this SPCC plan should be working document at the facility. The plan should be used frequently in the following ways:

- ◆ As a reference for oil storage and containment system information.
- ◆ As a tool for informing new employees and refreshing existing employees on practices for preventing and responding to spills.
- ◆ As a guide to periodic training programs for employees.
- ◆ As a guide to facility inspections.
- ◆ As a resource during an emergency response.

### ***1.1.2 SPCC Plan Revisions***

XYZ Oil Co. must revise this SPCC plan for any change in the facility design, construction, operation or maintenance that affects the facility's potential for discharging oil. Revisions must occur as soon as possible, but no later than six months after the change occurs. The Environmental Compliance Officer is responsible for initiating and coordinating such revisions.

Additionally, this SPCC plan must be reviewed at least once every five years. Revisions to the plan, if any, must be made within six months of the review. Facility information related to the SPCC plan must be submitted to the United States Environmental Protection Agency (EPA) Regional Administrator whenever the facility discharges more than 1,000 gallons in a single event, or discharges more than 42 gallons of oil in each of two spill events within a 12-month period.

## **1.2 Facility Description [112.7(a)(3)]**

### ***1.2.1 Location & Use***

The facility is located in a [commercial] [industrial] [residential] area at [address] in [city], Maine. A site location map is shown on Figure 1.

The site is comprised of approximately \_\_\_\_ acres of land. Improvements include [discuss buildings, facilities, equipment and operating areas]. Facility site plans are attached in Appendix C.

[Include a description of the type, overall purpose and usage of the facility.]

### ***1.2.2 Waterways and Abutters***

The nearest body of water to the site is \_\_\_\_\_, abutting the \_\_\_\_\_ (Figure 1). Stormwater at the site discharges to \_\_\_\_\_, and ultimately discharges to \_\_\_\_\_. Personnel at the facility must be made aware that spills leaving the site can impact \_\_\_\_\_.

### ***1.2.3 Site Drainage***

[Discuss surface runoff and fixed drainage systems.]

## **2.0 POTENTIAL SPILL SOURCES AND SPCC FEATURES**

### **2.1 SPCC Compliance [112.7(a)(1) & 112.7(a)(2) & 112.8]**

[Give a brief functional description of the oil storage, handling, containment and drainage features of the facility.]

[Discuss any compliance discrepancies, and how equivalent environmental protection is provided.]

## 2.2 Tables [112.7(a)(3)(i & iii) & 112.7(b)]

### ABOVEGROUND STORAGE TANKS

TANK NO.	CAPACITY (gallons)	PRODUCT	HI-LEVEL ALARM	ESTIMATED SPILL DIRECTION AND RATE	CONTAINMENT & SPILL CONTROL FEATURES

### UNDERGROUND STORAGE TANKS

TANK NO.	CAPACITY (gallons)	PRODUCT	TANK MONITOR	ESTIMATED SPILL DIRECTION AND RATE	CONTAINMENT & SPILL CONTROL FEATURES

### MOTOR FUEL DISPENSERS

DISP. #	# OF HOSES	PRODUCT	NEAREST DRAIN	ESTIMATED SPILL DIRECTION AND RATE	CONTAINMENT & SPILL CONTROL FEATURES

### DRUM STORAGE

BLDG. or LOCATION	# OF DRUMS	PRODUCT & gal./drum	NEAREST DRAIN	ESTIMATED SPILL DIRECTION AND RATE	CONTAINMENT & SPILL CONTROL FEATURES



### **3.0 SPILL PREVENTION AND RESPONSE**

#### **3.1 Discharge Prevention**

##### ***3.1.1 SPCC Features and Operating Procedures [112.7(a)(3) & 112.8]***

XYZ Oil Co. employees are trained to implement spill prevention practices for work with and around oil sources. XYZ Oil Co. personnel shall use common sense and rely on spill prevention practices at all times to minimize the potential for a release of oil.

For example, the following “common sense” practices are recommended:

- ◆ keep container lids securely fastened at all times;
- ◆ do not leave portable sources unattended (outside);
- ◆ return portable sources to their storage location after use;
- ◆ use pads, drip pans, and funnels when transferring petroleum products from a portable container;
- ◆ protect oil sources from damage by moving equipment;
- ◆ keep dike valves closed at all times except when discharging clean stormwater from the diked area;
- ◆ contaminated water within the diked area shall be removed and disposed of by a licensed hazardous waste contractor;
- ◆ do not store oil sources near catch basins or floor drains; and
- ◆ loading and unloading of petroleum products shall be attended at all times.

Spill prevention during oil deliveries (offloading) is the primary responsibility of the supplier until the product is safely in the tank or vessel. Vehicle filling is the responsibility of (customers)(facility personnel). XYZ Oil Co. implements spill prevention measures for vehicle filling and truck unloading operations.

#### ***Supplier Approval***

The Supplier Approval process endeavors to ensure that the vendor meets the minimum requirements and regulations for tank truck unloading as established by the United States Department of Transportation. These new supplier procedures also ensure that the vendor understands the site layout, knows the protocols for entering the site and unloading product, and has the necessary spill equipment on board to respond to a spill from the vehicle or fuel delivery hose.

### *Observation of Deliveries*

The Facility Manager or designee will supervise deliveries for all new suppliers and will periodically observe deliveries for existing, approved suppliers. Delivery observations include:

- ◆ vehicle inspection prior to delivery and departure (*e.g.*, to make sure the driver does not drive away with the hose in the fill pipe);
- ◆ inquiry to ensure the truck contains the right product for the tank;
- ◆ assurance that the tank can hold what the supplier intends to deliver; and
- ◆ adequate spill response equipment is on board the vehicle.

### *Vehicle Filling (Dispensing)*

Vehicle filling operations will be performed by customers [while trained facility personnel are on site] [while the station is unattended].

- ◆ Facility personnel will monitor the fueling area for safe and proper operation, and will take immediate action to correct deficiencies.
- ◆ Operating instructions are posted for self-service customers.
- ◆ For unattended operation (no facility employee on-site), an emergency stop pushbutton and a means of emergency communications are available.

### ***3.1.2 Tests and Inspections [112.7(e) & 112.8(c)(6)]***

The personnel at the facility shall perform testing, inspection, and maintenance of all petroleum equipment to keep it performing in an efficient and environmentally sound manner. The tests and inspections shall be performed as discussed in the following subsections.

#### ***3.1.2.1 Inspecting ASTs***

Facility personnel periodically observe the ASTs during operating hours. The ASTs shall be inspected monthly, and the results shall be recorded on the *Monthly AST Inspection Report*, as included in Appendix E. Spill response kits kept on site shall also be checked during the monthly AST inspection, and restocked as necessary. The monthly inspection reports shall be kept for at least three years in a file maintained by the Facility Manager. Inspections include observations of the exterior of the tank for signs of deterioration or spills (leaks), observations of the tank foundation and supports for signs of instability, and observations of the vent, fill and discharge pipes for signs of poor connection, that could cause a spill. In addition to these monthly inspections, the facility will periodically verify the integrity of each tank every ten

years, or more often as deemed necessary by the inspection results. Integrity testing will be conducted in accordance with an industry standard procedure such as STI – SP001-03 or API 653.

#### *3.1.2.2 Tank Maintenance*

All petroleum tank and piping problems shall be immediately reported to the Facility Manager. Visible oil spills (leaks) that cause a loss of oil from tank walls, piping or other components shall be repaired or replaced as soon as possible to prevent the potential for a major spill from the source. This is especially important for sources located outside or near drains or catch basins that discharge to the environment.

#### *3.1.3 Training [112.7(f)]*

XYZ Oil Co. shall provide SPCC spill training for personnel involved with handling petroleum products. The Environmental Compliance Officer shall arrange for annual training, which shall include the following training topics:

- ◆ an introduction to pollution control laws;
- ◆ rules and regulations pertaining to the use and storage of petroleum products;
- ◆ inspection, operation and maintenance of spill equipment, and petroleum storage and dispensing equipment;
- ◆ spill response and cleanup;
- ◆ spill notification and record keeping; and
- ◆ spill prevention practices.

Records of attendance at training and topics covered shall be maintained by the Facility Manager.

##### *3.1.3.1 Documentation for Training*

The annual SPCC training shall be documented to include the instructor's name, course outline, date and duration of training, attendant's names and signatures, and corrective action list for areas in need of improvement, if any. This information shall be filed and maintained for at least 3 years at the office of the Environmental Compliance Officer. A Certificate of Training shall be presented to each XYZ Oil Company employee that has completed the training. The Environmental Compliance Officer shall forward a copy of this certificate to the Human Resource Department for inclusion in the employee's file.

#### *3.1.4 Security [112.7(g)]*

[Discuss fencing, accessibility and hours of operation.]

[Discuss lockable features.]

[Discuss lighting and other security measures.]

### **3.2 Emergency Response [112.7(a)(3)(iv) and 112.7(c)]**

This section describes the cleanup response and protocols to follow in the event of an oil spill. The uncontrolled discharge of oil to groundwater, surface water or soil is prohibited by State or Federal laws. It is imperative that action be taken to respond to a spill once it has occurred. Depending on the volume and characteristics of the material released, XYZ Oil Co. has defined spill response as either a “Minor Spill Response” or “Major Spill Response” (“Spill Emergency”). A list of Emergency Contacts is included in Appendix A. A list of spill response materials kept at the facility is included in Appendix F.

#### **3.2.1 Minor Spill Response [112.7(a)(3)(iv)]**

A “Minor Spill Response” is defined as one that poses no significant harm to human health or the environment. These spills involve generally less than 5 gallons and can usually be cleaned up by XYZ Oil Co. personnel. Other characteristics of a minor spill include the following:

- ◆ the spilled material is easily stopped or controlled at the time of the spill;
- ◆ the spill is localized;
- ◆ the spilled material is not likely to reach surface water or groundwater;
- ◆ there is little danger to human health; and
- ◆ there is little danger of fire or explosion.

In the event of a minor spill the following guidelines shall apply:

- ◆ Stop the source if the spill is ongoing.
- ◆ Immediately notify the senior on-site person (i.e., Facility Manager).
- ◆ Call the Maine Department of Environmental Protection (1-800-482-0777) within two hours.
- ◆ Under the direction of a senior on-site person, contain the spill with spill response materials and equipment.
- ◆ Place spill debris in properly labeled waste containers.
- ◆ Complete the *Spill Notification Form* (Appendix B) and send to the Environmental Compliance Officer.

### **3.2.2 Major Spill Response (Spill Emergency) [112.7(a)(3)(iv)]**

A “Spill Emergency” is defined as one involving a spill that cannot be safely controlled or cleaned up. Characteristics include the following:

- ◆ the spill is large enough to spread beyond the immediate spill area;
- ◆ the spilled material enters surface water or groundwater (regardless of spill size);
- ◆ the spill requires special training and equipment to cleanup;
- ◆ the spilled material is dangerous to human health; and/or
- ◆ there is a danger of fire or explosion.

In the event of a spill emergency, the following guidelines shall apply:

- ◆ If the spill is ongoing stop the source only if safe to do so.
- ◆ All workers shall immediately evacuate the spill site and move to a safe distance away from the spill.
- ◆ A senior on-site person shall call for medical assistance if workers are injured (no worker shall engage in rescue operations unless they have been properly trained and equipped).
- ◆ A senior on-site person shall immediately contact the Maine Department of Environmental Protection (1-800-482-0777) and the National Response Center (1-800-424-8802). Document the telephone calls on the *Spill Notification Form* in Appendix B.
- ◆ Notify the local Fire Department or Police Department.
- ◆ A senior on-site person shall contact the Facility Manager and provide details regarding the spill.
- ◆ The Facility Manager or Environmental Compliance Officer will coordinate cleanup and seek assistance from a cleanup contractor as necessary.

If a senior on-site person is not available at the time of the spill, then the next highest XYZ Oil Co. employee in command shall assume responsibility.

### **3.2.3 Waste Disposal [112.7(a)(3)(v)]**

Wastes resulting from a minor spill response will be containerized in impervious bags, drums or buckets. The waste will be removed from the site by a licensed waste hauler within two weeks.

Wastes resulting from a major spill response will be removed and disposed by a cleanup contractor.

### ***3.2.4 Notification and Reporting [112.7(a)(4)]***

In the event of a minor spill, a senior on-site person shall notify the Environmental Compliance Officer and complete a written *Spill Notification Form*. This form details the time, material, and quantity of oil released.

If a major spill occurs at this XYZ Oil Co. facility the Environmental Compliance Officer shall, **in addition to the notification procedures above**, provide written information to the EPA Regional Administrator as required by the SPCC Plan rules. A copy of this information must be provided to the Maine Department of Environmental Protection.

#### ***3.2.4.1 Spill Notification Forms***

After making the appropriate phone calls and the spill is contained, a *Spill Notification Form*, included in Appendix B, shall be completed and submitted to the Environmental Compliance Officer. ). The *Spill Notification Form* includes a checklist to document the proper notification of state and federal agencies. The form shall be filed by facility name and maintained as long as XYZ Oil Co. owns and/or operates this facility.

### ***3.2.5 Area Plans***

The Environmental Protection Agency (EPA) and Coast Guard (USCG) administer Area Plans for spill contingency response by Region throughout the United States. The USCG covers coastal areas, and EPA covers inland areas. In a major spill event, contacting the National Response Center hotline will trigger assistance from the appropriate agency, if needed.

#### **4.0 REQUIRED FACILITY IMPROVEMENTS**

The Professional Engineer's certification of this plan is contingent on the following facility improvements being implemented for compliance with SPCC regulations 40 CFR 112:

1. \_\_\_\_\_.
2. \_\_\_\_\_.
3. \_\_\_\_\_.

## **APPENDIX A**

### **Emergency Contacts [112.7(a)(3)(vi)]**



## Emergency Contacts

### Spill Reporting Hotlines

Agency	Telephone #
Maine Department of Environmental Protection Oil Spill Response	1-800-482-0777
National Response Center USCG/USEPA	1-800-424-8802

### Local Emergency Agencies

Agency	Telephone #
[city] Fire Department	207-xxx-xxxx or 911
[city] Police Department	207-xxx-xxxx or 911

### Spill Response Contractors

Company/Location	Telephone #
	207-
	207-
	207-

### Owner Operator (XYZ Oil Co.)

Name/Title	Telephone #

See Appendix B for Emergency Response – Spill Notification Form

## **APPENDIX B**

### Spill Notification Form

### Spill Notification Form

Part A: Basic Spill Data		
Type of Spilled Substance:	Notification Person:	
Quantity Released:	Spill Date and Time:	
Location of Spill:	Discovery Date and Time:	
	SPILL DURATION:	
Facility Name & Location: XYZ Oil Company ____ Street ____, ME	Release to: <input type="checkbox"/> air <input type="checkbox"/> water <input type="checkbox"/> ocean <input type="checkbox"/> well <input type="checkbox"/> soil <input type="checkbox"/> sewer <input type="checkbox"/> containment <input type="checkbox"/> other _____	
Owner / Company Name: XYZ Oil Co. ____ Street ____, ME	Telephone: Facility: _____ 24 hr.: _____	
Nature of spill and any environmental or health effects: <div style="text-align: right;"><input type="checkbox"/> Injuries    <input type="checkbox"/> Fatalities</div>		
Part B: Notification Checklist		
Spill Type	Notification Date and Time	Name of Person that Received Call
Spill is any amount of petroleum product:		
Maine Department of Environmental Protection 1-800-482-0777		
Spill reaches groundwater or surface water:		
Maine Department of Environmental Protection 1-800-482-0777		
National Response Center 1-800-424-8802		

Send a copy of this form to the XYZ Oil Co. Environmental Compliance Officer.

This form shall be filed by facility name and maintained as long as XYZ Oil Co. owns and/or operates the facility.

## **APPENDIX C**

Facility Site Plans  
[112.7(a)(3)]

## **APPENDIX D**

### **Substantial Harm Criteria Checklist**

**[112.20(e)]**

**SUBSTANTIAL HARM CRITERIA CHECKLIST (40 CFR 112.20 (e))  
CERTIFICATION OF THE APPLICABILITY**

FACILITY NAME: \_\_\_\_\_

FACILITY ADDRESS: \_\_\_\_\_

\_\_\_\_\_

1. Does the facility transfer oil over water to or from vessels and does the facility have a total oil storage capacity greater than or equal to 42,000 gallons?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and does the facility lack secondary containment that is sufficiently large to contain the capacity of the largest aboveground oil storage tank plus sufficient freeboard to allow for precipitation within any aboveground oil storage tank area?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance such that a discharge from the facility would shut down a public drinking water intake?

Yes \_\_\_\_\_ No \_\_\_\_\_

5. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and has the facility experienced a reportable oil spill in an amount greater than or equal to 10,000 gallons within the last 5 years?

Yes \_\_\_\_\_ No \_\_\_\_\_

**CERTIFICATION**

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

\_\_\_\_\_  
Name (please type or print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## **APPENDIX E**

### **AST Inspection Checklist**

**AST Monthly Inspection Report**
**XYZ Oil Company**

Tank/Product Capacity	TK.1/ _____gall ons	TK.2/ _____gall ons	TK.3/ _____gallo ns	TK.4/ _____gall ons	TK.5/ _____gall ons
General Condition of Tank(note any deformations, corrosion, staining etc.)					
General Condition of Secondary Containment (note any cracks, drain valve closed/locked etc.)					
Foundation/Tank Base (note any staining, spills, water against base, etc.)					
Pumps, Piping & Dispensers					
Hose and Fittings					
Emergency Response Spill Kits	Location # Kit complete? ____ Kit restocked: ____	Location # Kit complete? ____ Kit restocked: ____	Location # Kit complete? ____ Kit restocked: ____	Location # Kit complete? ____ Kit restocked: ____	

Name: \_\_\_\_\_

This report shall be kept on file for at least three years.

Title: \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_



## **APPENDIX F**

### Spill Response Kit List

## **Spill Response Kits**

The following are some suggested items for on-site oil spill response kits. Spill kits should be well marked and kept in readily accessible locations. Facility personnel should be familiar with the location and contents of the spill kits. Note: The number and contents of oil spill response kits will vary with the nature, size and location of the facility. Response kits should be tailored to the site specific features of the facility.

Drum or other container to hold contents of spill kit

Drums or other containers to hold contaminated materials (specify number to be kept on site)

Loose absorbent for oil (specify amount to be kept on site)

Sorbent pads/wipes/pillows/booms/socks (specify amount to be kept on site)

Nitrile gloves (specify the number of pairs to be kept on site)

Neoprene gloves for cold weather use (specify the number of pairs to be kept on site)

Vinyl/PVC Pull-On Overboots (specify the number of pairs to be kept on site)

Nonsparking Shovels (specify the number to be kept on site)

Brooms (specify the number to be kept on site)

Drain seals/plugs/mats (specify the number to be kept on site)

Sand bags for dams or underflow weirs (specify number to be kept on site)

## **APPENDIX G**

### **Employee Training Log**

# Employee Training Log

Note: New employees shall receive initial training in the contents and implementation of this SPCC plan upon start of their employment. All employees shall receive annual refresher training in the contents and implementation of this SPCC plan.

[illegible]

## **APPENDIX H**

### **Dike Water Drainage Log**

## Dike Water Drainage Log

This log is to be completed whenever water is discharged from a diked area. Only *clean* water may be discharged from the diked area. The dike valve must remain closed except when draining water from the diked area. The dike valve must be closed promptly after the diked area is drained.

Diked Area #	Date	Oil Sheen Present?*	Time Dike Valve Opened	Time Dike Valve Closed	Signature

\* Note: **Water which has a sheen must not be discharged from the diked area.**

Contaminated water must be treated so that it does not have a sheen prior to being discharged from the diked area, or transported off site by a licensed hazardous waste or waste oil contractor for disposal. Discharge of dike water to a surface water, either directly or indirectly, is regulated by the DEP, Division of Water Resource Regulation.